IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 9980 of 2000

For Approval and Signature:

HONOURABLE MR.JUSTICE S.R.BRAHMBHATT

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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MANGROL MUSLIM EDUCATION WELFARE SOCIETY & 1 - Petitioners
Versus
MANISHABEN HIRALAL DABHI & 1 - Respondents

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Appearance :
MR HJ NANAVATI for Petitioners : 1 - 2.
None for Respondent : 1,
MS SEJAL K MANDAVIA for Respondents : 1.2.1, 1.2.2, 1.2.3,1.2.4
MR MP PRAJAPATI for Respondents : 1.2.5
MR NC SHAH for Respondents : 1.2.5
RULE SERVED for Respondent : 2,

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CORAM : HONOURABLE MR.JUSTICE S.R.BRAHMBHATT

Date : 11/10/2007

ORAL JUDGMENT

1. Learned counsel for the parties have placed on record the consensus arrived at between the parties for amicably resolving the matter. The same is ordered to be taken on record. The counsel for the parties have requested that the Court may pass appropriate order in light of the consensus arrived between the parties and their counsel.

2. The petitioners have challenged the order dated 20.4.2000 passed in Application Nos. 606 of 1993, 327 of 1994 and 53 of 1995 passed by the Gujarat Secondary Education Tribunal, quashing and setting aside the order dated 31.1.1995 declaring that the applicant was entitled to receive his salary till date of his death i.e. 8.4.1998.

3. In view of the consensus between the parties and their counsel that the order of the Tribunal impugned in this petition be modified and in view of the salary ordered, the petitioner Management shall make payment of Rs.1,50,000=00 in three installments to the heirs, who are brought on record towards full and final settlement of the claim of the deceased and heirs, who are brought on record of this matter.

4. Ms. Mandavia, learned counsel appearing for the deceased's wife and children has submitted that the wife has to support entire family of deceased consisting of three children – two daughters and a son, they are prosecuting their studies and therefore, she is in dire

need of funds. She has submitted that the other heir i.e mother of the deceased – respondent No.1/5 is in fact residing with the brother of the deceased and as such she is being taken care of by the brother of the petitioner.

5. Shri Rahul Chavda, learned advocate for Mr. Prajapati for the respondent No. 1/5 submits that despite repeated attempt to contact the mother i.e respondent No. 1/5, they are not in a position to receive any instructions and therefore, it is submitted that the apportionment of aforesaid amount of Rs.1,50,000=00 as agreed to be paid by the petitioner Management towards full and final settlement to the heirs on record, may be made by the Court and they shall have no grievance whatsoever. Shri Chavda for Mr. Prajapati submitted that as the respondent No. 1/5 could not be contacted, he would not be in a position to controvert the submissions made by Ms. Mandavia that the mother is residing with brother of the deceased and she has been taken care of by his brother. He, therefore, leaves apportionment of the amount to this Court.

6. In view of the aforesaid, impugned order dated 20.4.2000 is hereby modified and the Management shall make payment of Rs.1,50,000=00 in three equal installments of two months each starting from 25.10.2007. The respondent Nos. 1/1 to 1/4 shall receive an amount of Rs.1,25,000=00 and the remaining amount of Rs.25,000=00 shall be paid to respondent No. 1/5. The said amount shall be paid by account payee cheque.

7. With this direction, the petition is partly allowed. Rule is made absolute to the aforesaid extent only. Interim relief, if any, stands vacated. There shall be no order as to costs.

(S.R.BRAHMBHATT, J.)

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